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10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**
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13 JUAN PABLO LOPEZ-RUBIO,
14 Petitioner,
15 v.
16 UNITED STATES OF AMERICA,
17 Respondent.

Case No.: 15-CR-0263 W-1
16-CV-1422 W

**ORDER DENYING PETITION FOR
WRIT OF HABEAS CORPUS
[15-CR-0263 W-1, DOC. 37]**

28 U.S.C. § 2255

19 Petitioner, proceeding pro se, has filed a petition for writ of habeas corpus pursuant
20 to 28 U.S.C. § 2255 (“Petition”). [15-CR-0263 W-1, Doc. 37.] The Court decides the
21 matter on the papers submitted and without oral argument pursuant to Civil Local Rule
22 7.1(d)(1). For the reasons that follow, the Court **DENIES** the Petition.

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1 On December 7, 2015, judgment was entered against Mr. Juan Pablo Lopez-Rubio
2 for importation of heroin in violation of 21 U.S.C. §§ 952 and 960. (*Judgment* [15-CR-
3 0263 W-1, Doc. 36].) Mr. Lopez-Rubio was sentenced to 37 months in the custody of the
4 Bureau of Prisons, to be followed by three years' supervised release. (*Id.*)

5 On June 6, 2016, Mr. Lopez-Rubio filed the Petition, which appears on a single
6 loose page. [15-CR-0263 W-1, Doc. 37.] It contains no contentions beyond a single
7 sentence vaguely referencing "Rule 11," "the Fifth [Amendment,]" and "due [process]
8 rights." (*Id.*)

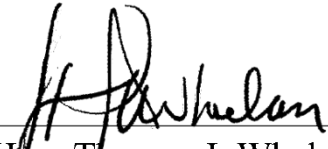
9 Accordingly, on March 6, 2017, the Court ordered Petitioner to fill out Form
10 AO243-Motion to Vacate/Set Aside Sentence (Motion Under 28 U.S.C. § 2255) on or
11 before Wednesday, April 5, 2017. At the direction of the Court, the Clerk mailed
12 Petitioner a copy of the relevant form on March 6, 2017. [15-CR-0263 W-1, Doc. 44.]

13 More than ten months have now passed since the deadline set in the Court's
14 previous order. Petitioner has not filed the form identified in the prior order. Nor has he
15 otherwise supplemented his original submission. Petitioner's Plea Agreement contains a
16 collateral attack waiver. (*Plea Agreement* [Doc. 24] 9–10.) See United States v. Abarca,
17 985 F.2d 1012, 1014 (9th Cir. 1993) ("A knowing and voluntary waiver of a statutory
18 right is enforceable."). Despite ample time, Petitioner has failed to identify any issues, let
19 alone to identify issues outside the scope of the waiver.

20 The Petition is **DENIED**. The Clerk is directed to close the associated civil case.

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22 **IT IS SO ORDERED.**

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24 Dated: February 15, 2018

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27 Hon. Thomas J. Whelan
28 United States District Judge